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Filing date: **01/31/2020**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	92071980
Party	Plaintiff Elevated Faith LLC
Correspondence Address	KEVIN CHRISTOPHER ROCKRIDGE VENTURE LAW 801 BROAD ST , STE 428 CHATTANOOGA, TN 37402 UNITED STATES kevin@rockridgelaw.com 423-708-5310
Submission	Motion to Amend Pleading/Amended Pleading
Filer's Name	Kevin Christopher
Filer's email	kevin@rockridgelaw.com
Signature	/Kevin Christopher/
Date	01/31/2020
Attachments	EF Motion to Amend rd.pdf(1124285 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

ELEVATED FAITH LLC,)	
)	Proceeding No. 92071980
Petitioner,)	
)	Cancellation No. 92,071,980
vs.)	
)	Registration No. 5,187,052
GODISGHL, LLC,)	
)	
)	
Registrant.)	
)	

MOTION FOR LEAVE TO FILE AMENDED PETITION TO CANCEL

Petitioner Elevated Faith LLC (“Petitioner”) hereby moves for leave to amend the Petition to Cancel instant to amplify its grounds for cancellation of Reg. No. 5,187,052 for the mark G V V issued to Registrant GODISGHL, LLC, (“Registrant”). In support of its Motion, Petitioner states as follows:

1. On August 8, 2019, Petitioner filed its Petition to Cancel, seeking to cancel Registrant’s Trademark Reg. No. 5,187,052 for the G V V mark (the “Registration”). This proceeding was assigned Cancellation No. 92,071,980.
2. On September 23, 2019, Registrant filed its Answer to Petitioner’s Petition to Cancel.
3. Petitioner now moves to amend its Petition to Cancel to amplify the grounds on which its Petition rests by including an additional ground and additional factual allegations.
4. Under Rule 15(a), a party’s leave to amend pleadings “shall be freely given when justice so requires.” Refusal to grant leave to amend is justified only where there is undue delay or bad faith, where the amendment would result in substantial prejudice to the other party or when

the amendment would be futile. See, e.g., *Forman v. Davis*, 371 U.S. 178, 182 (1962). Justice so requires in the instant case because the issue at hand is one of significant public importance: whether a widely embraced Christian symbol conveying religious information can be monopolized by a commercial entity under the Lanham Act.

5. Additionally, Petitioner's proposed amendments to the pleadings are timely because its motion is being filed prior to the start of discovery or submission of any summary judgment motions, and there is no undue delay or bad faith. Further, Registrant will not be unduly prejudiced by the proposed amendments because the additional ground relies primarily on factual allegations from Petitioner's original Petition to Cancel.

6. The substance of Petitioner's amended Petition to Cancel is found attached as Exhibit 1.

WHEREFORE, Petitioner Elevated Faith LLC, respectfully requests that the Board grant its Motion for Leave to File an amended Petition to Cancel to clarify the grounds on which its Petition rests.

DATED: January 31, 2020

Respectfully submitted,
Rockridge Venture Law

/Kevin Christopher/
Kevin Christopher
116 Locust St. STE E
Cookeville, TN 38501
(615) 997-0723

Attorney for Petitioner Elevated Faith LLC

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that true and correct copies of the forgoing MOTION FOR
LEAVE TO FILE AMENDED PETITION TO CANCEL was delivered through electronic filing
in ESTTA to:

John R. Sommer
sommer@stussy.com

DATED: January 31, 2020

Respectfully submitted,
Rockridge Venture Law

/Kevin Christopher/

Kevin Christopher
116 Locust St. STE E
Cookeville, TN 38501
(615) 997-0723

Attorney for Petitioner Elevated Faith LLC

EXHIBIT 1

COUNT FIVE: FAILURE TO FUNCTION AS A MARK

1. Petitioner sells apparel and jewelry bearing positive and Christian-themed messages. Some of Petitioner's items bear the Registered Mark, which is the readily apparent shorthand of the phrase "God is Greater than the Highs and Lows."


2. The Registered Mark is considered a symbol of the Christian faith. It is often featured near other religious symbols—such as the cross, doves, and fish—and in connection with biblical scripture, even by the Registrant itself.



twitter.com/alexandria23/status/599704407246470144

Tweet

Forgot to post this more Jesus tats holla



5:34 PM · May 16, 2015 · Twitter for iPhone



ohnap_ite • Follow

Wow Em these are really good! @

Stunning...

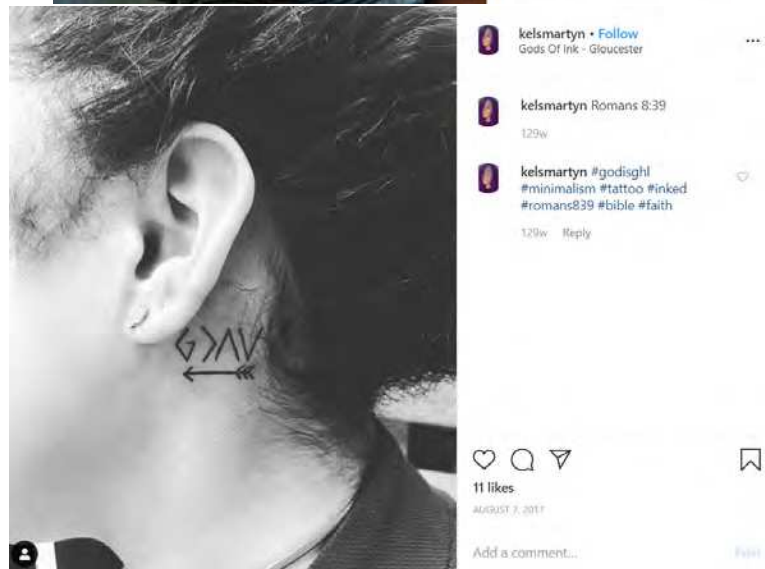
ohnap_ite Thank you Haley! And Brad haha thanks @jchreak819 @haleyylane

music_g33k Follow back?

52 likes

May 15, 2014

Add a comment...



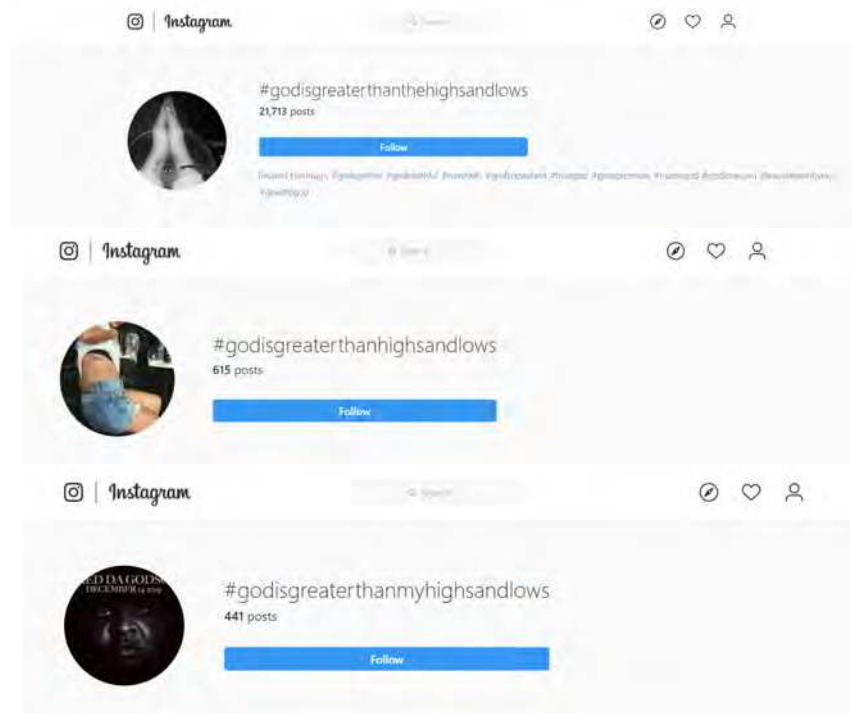
3. The Registered Mark is extremely popular among the Christian community. Because of the Registered Mark’s popularity, it cannot serve as a trademark as it is not the identifier of a single source.

A. On August 8, 2013, the musician Nick Jonas of the Jonas Brothers band, shared a new tattoo on his social media accounts. The Registered Mark mirrors the design of the tattoo (the “Jonas Tattoo”). Mr. Jonas received over 180,000 “likes” on his Instagram post.



B. Upon information and belief, not a single share or like of the Registered Mark presented as the Jonas Tattoo was associated with the Registrant as the source.

C. Since the posting of the Jonas Tattoo, there have been tens of thousands of social media postings featuring the Registered Mark—the majority having no connection whatsoever to the Registrant—associated with personal tattoos, apparel, jewelry, and artwork and numerous hashtags.

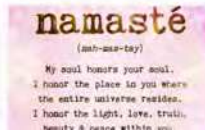




#godisgreaterthanthehighsandthelows
426 posts

Follow

Top posts



#godisgreaterthan
1,380 posts

Follow

Top posts





#godisgreaterthanyourhighsandlows
134 posts

Follow

Top posts



#godisgreaterthanourhighsandlows
121 posts

Follow

Top posts



mollipop · [Follow](#)
Southeastern University

...mollipop_ My painting that I did the other day! It means "God is greater than the highs and lows." Thanks for inspiring me to paint. Sarah! #painting #GodIsGreaterThanTheHighsAndLows


270w

crystal_cassidy 🍷🍷🍷🍷🍷
270w Reply

aliburdin Perfect! :)
270w Reply

60 likes
SEPTEMBER 13, 2018

Add a comment...

 **Hannah Trimor** updated her cover photo.
December 4, 2014 · 

God is greater than the highs and lows.



 3

 Share



 ohnap_itsa • Follow

 Reply

 halleylrene Wow Em these are really good! 

 Reply

 jcfreak019 Stunning... 

 Reply

 ohnap_itsa Thank you Halley! And brad hahaha thanks @jcfreak019 @halleylrene 

 Reply


 music_g33k Follow back? 

 Reply

52 likes

1960-21 12, 2014

Add a comment...


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Popular items for god is greater (1,129 results)


Price US Shipping




god is greater
god is greater than the highs and lows
\$30.70 (144) 100 shipping




God is Greater Than the Highs and Lows
\$34.00 (144) 100 shipping



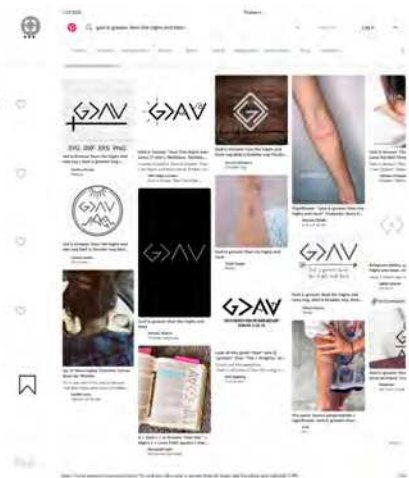
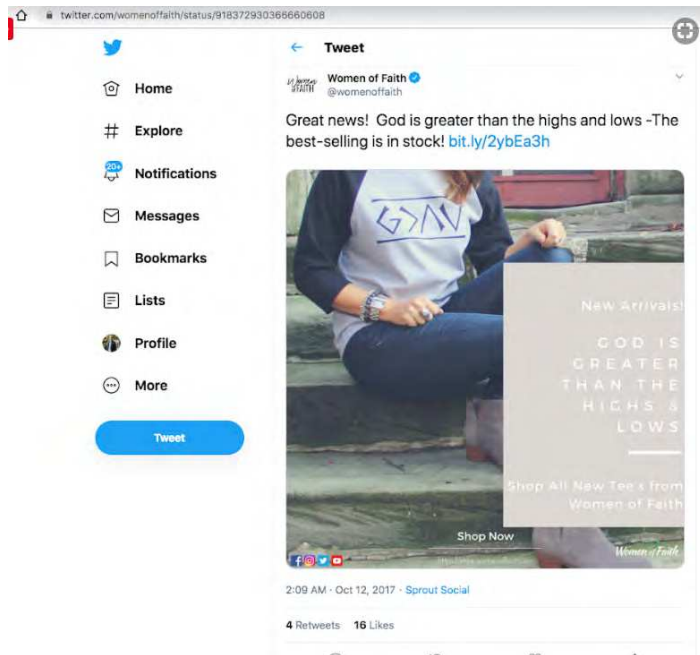
Personalized God is greater than the highs and lows
\$19.99 (144) 100 shipping

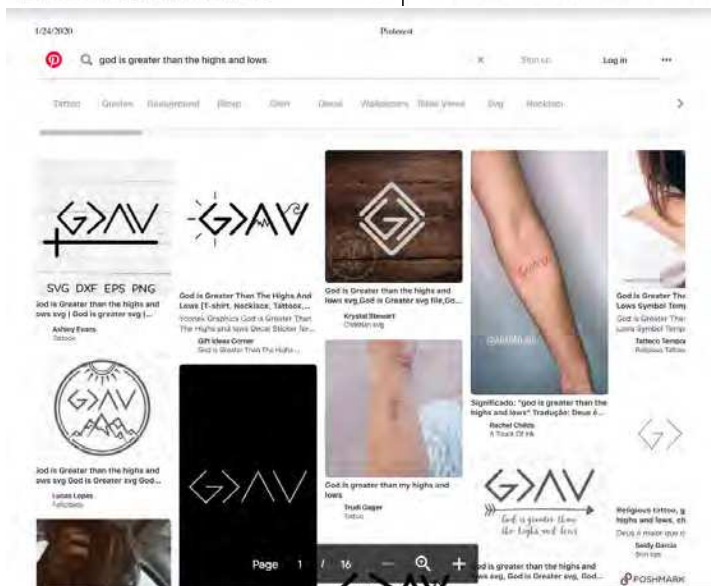
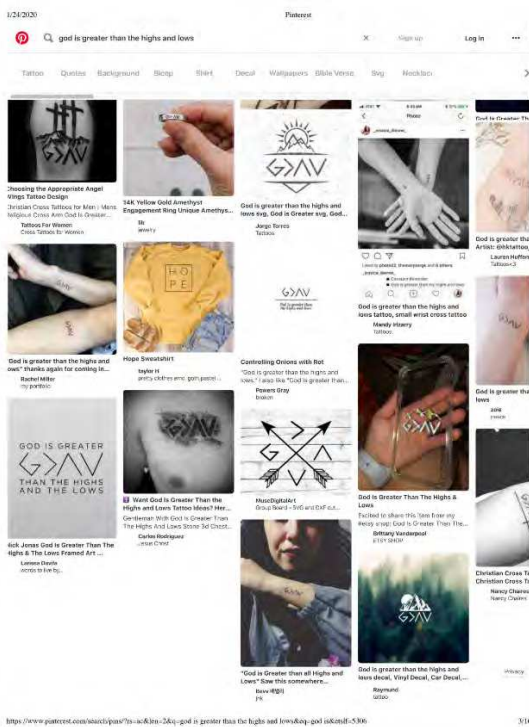


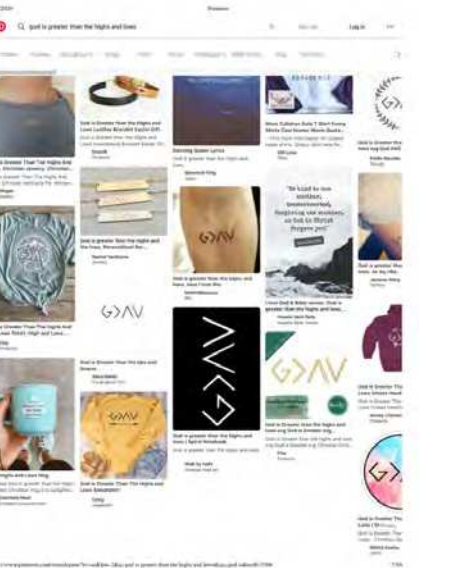
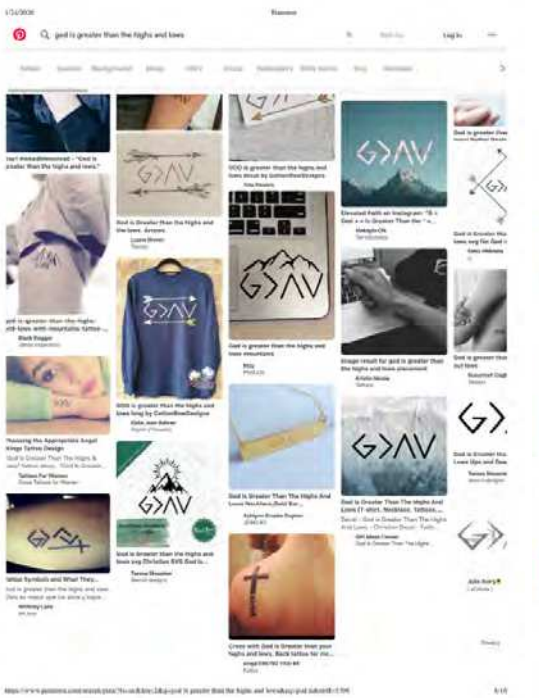
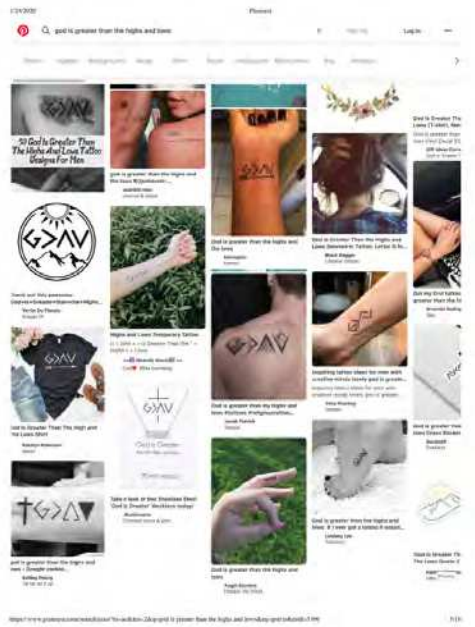
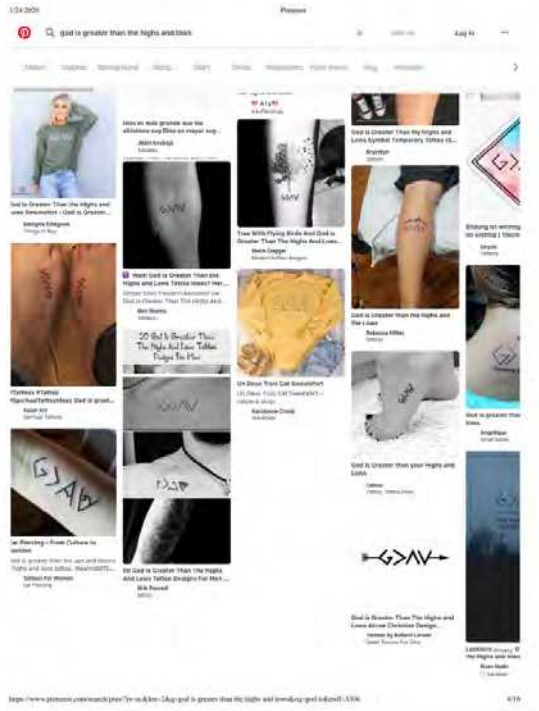
God is greater than the highs and lows
\$29.99 (144) 100 shipping

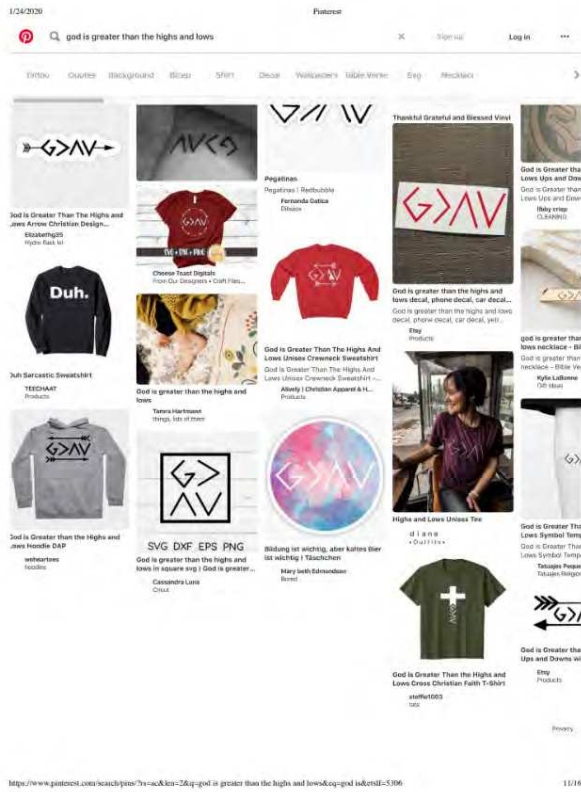
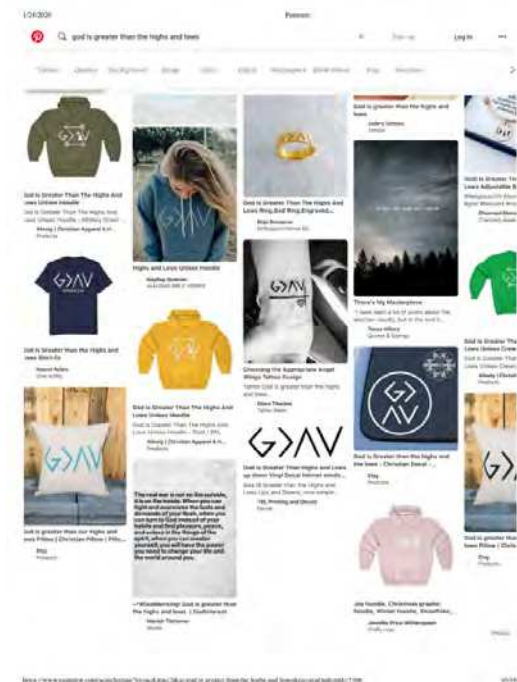
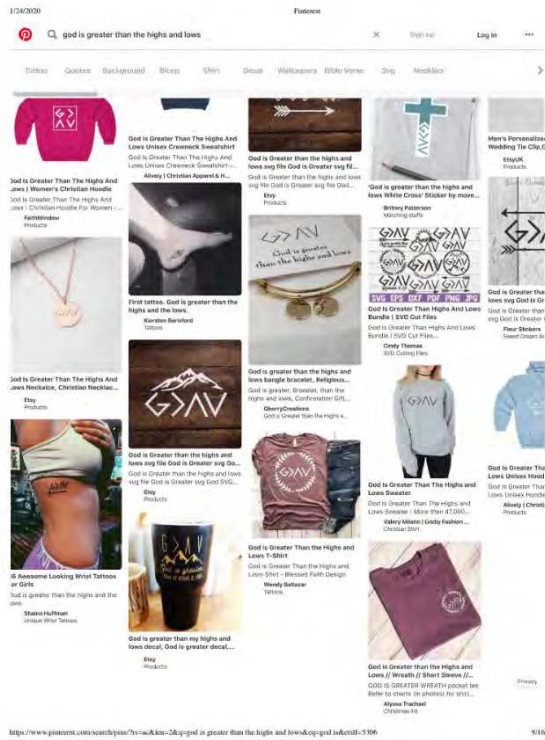


God is Greater Than the Highs and Lows
\$43.99 (144) 100 shipping









Julia Jonas
August 10, 2013

God is greater than the highs and lows.



55 4 Comments

Share

Camila Plaza updated her cover photo.
September 11, 2013

God is greater than the highs and lows ❤️



51 8 Comments

Share

Jared Blaise
September 29, 2013

"God is Greater Than the Highs and Lows" 😊



20

Like Share

Ariel Ramirez updated her cover photo.
October 13, 2013

God is greater than the highs and lows



10 21 Comments

Share

Haleigh Kiser updated her cover photo.
March 8, 2014

God is Greater than the Highs and Lows ❤️



5 1 Share

Share

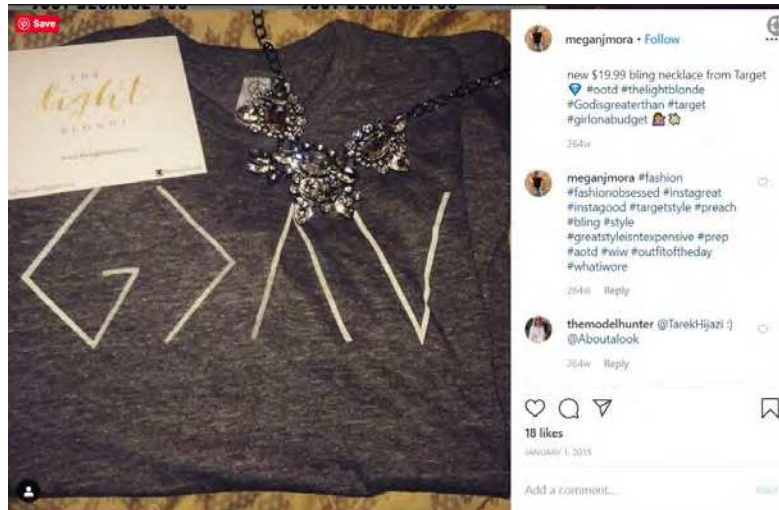


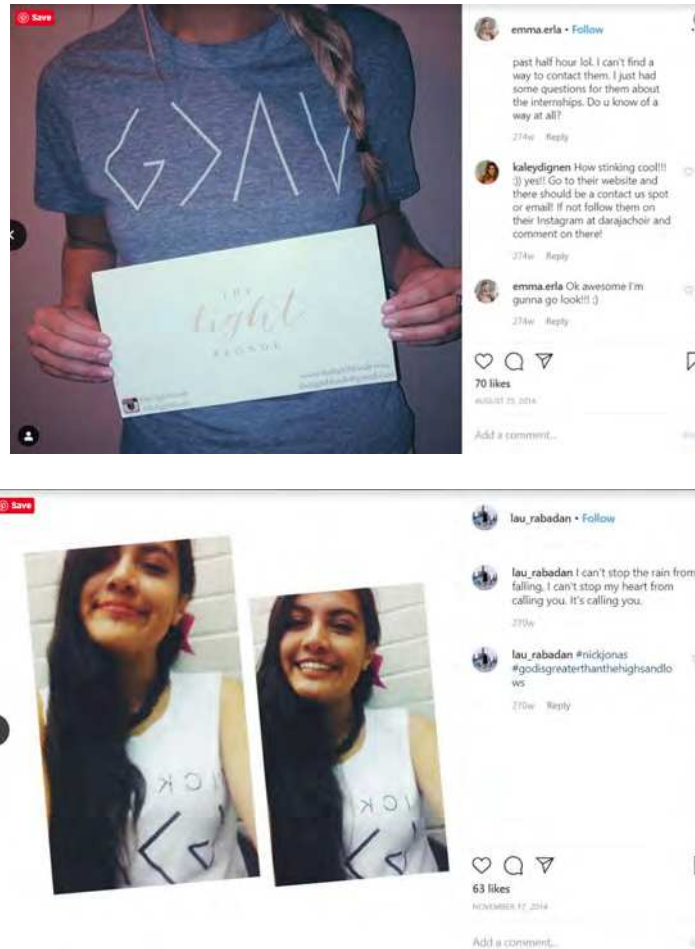
D. The Registrant's affiliated hashtag #GODISGHL, which the Registrant created and uses to promote its own products, is simultaneously used for the products of other retailers that bear the Registered Mark.



E. Upon information and belief, hundreds—if not thousands—of vendors sell apparel

featuring the Registered Mark. Multiple vendors were selling such apparel even prior to the Registrant's filing of the Registered Mark.





F. Moreover, the USPTO even highlighted some of these vendors in rejection of the similarly situated and deficient filing of U.S. Serial No. 88322995, GOD IS GREATER THAN THE HIGHS AND LOWS (the “995 mark”), which on June 18, 2019, was subject to a refusal to register

because the applied-for-mark is a slogan or term that does not function as a trademark or service mark to indicate the source of applicant’s goods and to identify and distinguish them from others... In this case, the applied-for-mark is a commonplace term, message, or expression widely used by a variety of sources that merely conveys an ordinary, familiar, well-recognized concept or sentiment.

4. The Registered Mark fails to function as a trademark because it is a symbol belonging to the masses, one with religious significance and in the throes of popular culture. The Registered Mark is merely an informational slogan used by those of Christian faith to express their

belief and admiration of their recognized savior.